

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

ROGER LEE HARRIS,

Plaintiff,

v.

Case No.: 2:13-28109

CAROLYN W. COLVIN,  
Acting Commissioner of the  
Social Security Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

The court having received the Proposed Findings and Recommendation of United States Magistrate Judge Cheryl A. Eifert, entered on December 1, 2014; and the magistrate judge having recommended that the court reverse the final decision of the Commissioner and remand this matter pursuant to the fourth sentence of 42 U.S.C. § 405(g); and no objection having been filed to the Proposed Findings and Recommendation, it is ORDERED that:

1. The findings made in the Proposed Findings and Recommendation of the magistrate judge be, and hereby are, adopted by the court and incorporated herein;
2. The decision of the Commissioner be, and hereby is, reversed;

3. The claim is remanded for further administrative proceedings to determine if plaintiff meets the diagnostic description of mental retardation -- that is, whether he has "significantly subaverage general intellectual functioning with deficits in adaptive functioning initially manifested during the developmental period, i.e., the evidence demonstrates or supports onset of the impairment before age 22."

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and the United States Magistrate Judge.

DATED: January 20, 2015

  
John T. Copenhaver, Jr.  
United States District Judge